

MAR 06 1991 1

IN THE DISTRICT COURT OF SMITH COUNTY

T E X A S

PLAINTIFF'S
EXHIBIT

TPI-163

RAVIN GREEN, AND WIFE, X
R. V. GREEN; AND BILLY X
HAMPTON AND WIFE, RUBY X
LEE HAMPTON X

VS. X

NO. 90-968-A

ORIENTAL GASKET AND PACKING X
COMPANY; DALLAS GASKET AND X
PACKING COMPANY, INC.; AND X
LUFKIN RUBBER AND GASKET X
COMPANY X

DEPOSITION OF PAUL LOWRY

BE IT REMEMBERED THAT THE DEPOSITION OF PAUL LOWRY was taken on the 15th day of February, 1991, beginning at 9:25 a.m. in the offices of Ramey, Flock, Jeffus, Crawford, Harper and Collins, Tyler, Texas, before Judy Murff, Certified Shorthand Reporter, State of Texas, pursuant to the stipulations and agreements stated by Counsel on the record prior to the beginning of the deposition.

EXHIBIT

Birkner

12

07-09-99

ENCLOSURE, N. J.

JUDY MURFF

Registered Professional Reporter

211 E. Tyler, Suite 513

Longview, Texas 75601 903/759-9534

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FOR TYLER PIPE INDUSTRIES, INC.

1 MR. BLACK: We've all agreed I can
2 attach our Objections to Subpoena Duces
3 Tecum, which we're going to mark as
4 Exhibit A.

5 REPORTER'S NOTE: Exhibit A marked for
6 identification.

7 MR. BLACK: And does anybody object to
8 me just having this apply to all four
9 depositions taken today of Tyler Pipe
10 employees?

11 MR. NEGEM: No.

12 MR. BLACK: Okay. Thank you.

13 MR. NEGEM: As to agreements during the
14 deposition, do y'all want to reserve all
15 objections until trial except as to the
16 form of the question and responsiveness
17 of the answers, is that okay?

18 MR. DOLEZAL: That's fine.

19 MR. NEGEN: Signature before any notary.
20 If a copy is not signed by the time of
21 trial, a copy can be used in its place,
22 is that okay?

23 MS. JUDIN: Yeah. Or any hearing.

24 MR. BLACK: That's fine.

25 MR. NEGEM: Can we also have an

1 agreement that, to keep me from having
2 to be extremely redundant and cause
3 protracted deposition today, that
4 Mr. Lowry's deposition that was taken on
5 March 16th of 1990 previously in another
6 case can be used at any hearing or any
7 trial?

8 MR. DOLEZEAL: Well, I have objections
9 until I could see it.

10 MR. NEGEM: I think I've supplied
11 everybody with copies of them.

12 MR. DOLEZEAL: I don't think I've ever
13 seen them.

14 MS. JUDIN: I don't think I can agree to
15 that, Jimmy, since we weren't at that
16 deposition nor was my client represented
17 at the deposition.

18 MR. NEGEM: All right. I assume that
19 would hold true for all the rest of the
20 depositions that we're going to do
21 today.

22 MS. JUDIN: Yeah. And can we also add
23 the agreement that an objection by one
24 Defendant is good to all, so we all
25 don't have to chime in?

1 MR. NEGEM: Yeah.

2 MR. BLACK: That's fine with me.

3 PAUL LOWRY

4 was called as a witness by the Plaintiff and after being
5 duly sworn testified as follows:

6 DIRECT EXAMINATION

7 BY MR. NEGEM:

8 Q Your name is Paul Lowry?

9 A Yes, sir.

10 Q Mr. Lowry, I think we've met before when I've
11 taken your deposition on a previous occasion. My name is
12 Jimmy Negem. Is it correct that we have met before?

13 A Yes, we have.

14 Q I'm going to try not to repeat many of the
15 questions that I had for you before for the sake of time.
16 But if you don't understand any question that I ask you
17 would you ask me to repeat it or rephrase it?

18 A Yes, I will.

19 Q And I believe you've been working at Tyler Pipe
20 since 1959?

21 A Yes, sir.

22 Q And what is your position, sir?

23 A Director of Purchasing.

24 Q Mr. Lowry, in your previous deposition you
25 indicated that in the past Tyler Pipe has used asbestos-

1 containing products?

2 A Yes, sir.

3 Q Could you generally describe the category of the
4 asbestos-containing products that you're aware of that Tyler
5 Pipe has used since 1959?

6 A We used an asbestos sheeting, asbestos gloves, and
7 I believe it was called an asbestos apron or possibly
8 asbestos coat, I'm not sure.

9 Q Okay. I'm going to take these one at a time. I
10 understand that --. Well, to the best of your recollection
11 when did Tyler Pipe cease using these asbestos-containing
12 products?

13 A Approximately 1980.

14 Q Okay. That is what I understand you said in your
15 former deposition.

16 A Right.

17 Q Okay. Now, when you arrived in 1959 to the best
18 of your recollection were they using these asbestos-
19 containing products at Tyler Pipe?

20 A I'm not sure, because I went to work for a company
21 called Cal-Tex Division. And during a period of two or
22 three years Tyler Pipe bought them out, and then I was
23 transferred over there.

24 Q So you went to work out at Tyler Pipe at their
25 facility out on 69 North somewhere around --?

1 A '61 or '62.

2 Q Since you arrived on the scene in '61 or '62 at
3 Tyler Pipe were they using the asbestos sheeting, gloves,
4 apron or coat?

5 A I'm not sure.

6 Q Just sometime after you arrived in '61 or '62 you
7 recall them using those products?

8 A Right.

9 Q You can't tell me which year, though?

10 A No, sir. Because at that particular time I was
11 not in the Purchasing Department.

12 Q When did you start in the Purchasing Department?

13 A In 1967.

14 Q Were they using the -- was Tyler Pipe using the
15 asbestos sheeting, gloves, apron or coat when you first
16 began working in the Purchasing Department, that you can
17 recall?

18 A The gloves and the sheeting I'm almost certain
19 they were.

20 Q That's to the best of your recollection?

21 A Right.

22 Q Insofar as the asbestos sheeting is concerned, I
23 understand that was used in connection with blowboard
24 application?

25 A Yes, sir.

1 Q Can you just briefly describe what that was?

2 A We bought the sheeting in rolls. It was like a
3 roll of carpet. You rolled it off and cut it and applied it
4 to a piece of plywood which was either nailed or tacked.
5 And it was a heat resistance for application in our core
6 rooms.

7 Q And were the blowboards used in connection with
8 what is known as core ovens?

9 A Yes, sir.

10 Q I think that Mr. Olin Jackson or Bobby Smith might
11 know a little bit more about that.

12 A Yes, sir.

13 Q To the best of your recollection who were Tyler
14 Pipe's distributors of the asbestos sheeting?

15 A Oriental Gasket, Dallas Gasket and Packing, and
16 Lufkin Rubber and Gasket.

17 Q Oriental Gasket, do you know where they were out
18 of?

19 A Dallas.

20 Q And do you recall any other distributors of the
21 asbestos sheeting other than the three that you've just
22 named?

23 A No, sir.

24 Q And as I understand it, the asbestos sheeting was
25 used in connection with blowboards?

1 A Yes, sir.

2 Q To your knowledge was it used in connection with
3 any other operation at Tyler Pipe?

4 A No, sir.

5 Q Do you recall the names of the manufacturers of
6 the asbestos sheeting?

7 A No, sir.

8 Q The best you can give me is, your direct supplier,
9 the distributor?

10 A Right. Distributors.

11 Q Insofar as the asbestos gloves, do you recall the
12 name of the manufacturers or the distributors that sold
13 Tyler Pipe those products?

14 A No, sir. Because there were so many glove
15 manufacturing salesmen, I don't have any idea.

16 Q Okay. Insofar as the aprons or the coats that
17 contained asbestos that Tyler Pipe used, do you recall the
18 names of the manufacturers or distributors of those, that
19 Tyler Pipe received those products from?

20 A No, sir. You've got the same case as the gloves.

21 Q Okay. As I understand it and for the benefit of
22 these other attorneys, Tyler Pipe does not have any hard-
23 copy records of any sales of these products any longer due
24 to their record retention policy?

25 A That's right. We keep --. Our records go back

1 three years plus the year we're working in.

2 Q Do you recall ever receiving any warnings or
3 instructions from any of the suppliers that you mentioned of
4 the asbestos sheeting relating to the dangers or hazards
5 associated with asbestos exposure?

6 A Not from the suppliers, no, sir.

7 Q You mentioned that the asbestos sheeting came in
8 rolls, is that correct?

9 A Yes, sir.

10 Q Did you ever see any warnings or instructions
11 regarding the dangers or hazards on the rolls?

12 A No, sir.

13 Q On the packaging that it came in?

14 A No, sir.

15 Q Did you ever see any warnings or instructions on
16 the gloves or the aprons or the coats?

17 A No, sir.

18 Q Okay. We've had some Xerox copies of some
19 photographs that were produced and let me just show this to
20 you very briefly. Is this the type of roll that the
21 asbestos sheeting came in?

22 A I never saw the roll that it came in, due to the
23 fact that our Purchasing Department is in a different
24 location from our warehouse and receiving area.

25 Q And how did you become aware that they would come

1 in rolls?

2 A Talking with Olin Jackson.

3 Q Did it indicate on the invoices or the packing
4 slips that they were rolls, as well?

5 A Yes.

6 Q So you became aware of that through your personal
7 knowledge --

8 A Right.

9 Q -- in dealing with the invoices?

10 A Yes, sir.

11 MR. NEGEM: I believe that's all I have.

12 Thank you very much, sir.

13 CROSS EXAMINATION

14 BY MS. JUDIN:

15 Q Mr. Lowry, my name is Jennifer Judin, as we have
16 been introduced, and I represent Dallas Gasket and Packing
17 Company.

18 I believe in your previous deposition in the
19 Horton case --

20 A Yes.

21 Q -- do you recall what I'm talking about?

22 A Yes, ma'am.

23 Q It was taken on March 16, 1990. You testified
24 that three distributors that Tyler Pipe dealt with of
25 asbestos products were Oriental Gasket, Dallas Gasket, and

1 Lufkin Rubber and Gasket. Do you have any documentation of
2 any sort that would show any purchases or any orders from or
3 to those companies?

4 A No, ma'am.

5 MS. JUDIN: First of all, I want to have
6 this marked as an exhibit.

7 REPORTER'S NOTE: Exhibit B marked for
8 identification.

9 Q I'm going to show you what's been marked as
10 Exhibit B. And I'll represent to you that this is a work
11 order of Dallas Gasket and Packing Company dated 3/20/85 to
12 Tyler Pipe.

13 A Yes.

14 Q Showing a shipment of 150 pieces of what's called,
15 black asbestos 3-5/8-inch --. It is my understanding these
16 are gaskets.

17 A Yes, ma'am.

18 Q Does that writing on that work order, the
19 description, mean anything to you?

20 A This would be a part number here.

21 Q Where it says, "DGP" --

22 A Right.

23 Q -- "P/N"?

24 A That is not a Tyler Pipe part number so I assume
25 it is either Dallas Gasket and Packing or maybe the

1 manufacturer of the product.

2 Q Okay. Does, black asbestos, mean anything to you?

3 A No. This is a gasket; this is not sheeting.

4 Q Okay. Then the next item I've been told is not an
5 asbestos product. It's, brown neoprene 3-ply. Are you
6 familiar with that product?

7 A That would be a gasket also. No, it would not be
8 an asbestos product.

9 Q Okay. I have discussed with my client their sales
10 to Tyler Pipe and I'll represent to you that my client will
11 testify at trial that they kept complete and accurate sales
12 records from their date of inception in 1965, the time they
13 were incorporated. And this is the only sale of asbestos
14 materials that Dallas Gasket has made to Tyler Pipe,
15 according to their records. Do you have any reason to
16 refute that or --?

17 A No, ma'am.

18 Q Okay. Dallas Gasket was also selling nonasbestos
19 material to Tyler Pipe at the time?

20 A Yes, ma'am.

21 Q So, it could very well be that this was the only
22 sale of asbestos materials, this 150 pieces of gasket
23 material?

24 MR. NEGEM: I'm going to object to that,
25 if you were done with your question. I

1 didn't want him to answer too quickly.

2 Go ahead.

3 Q So, it could be that this sale on 3/20/85 is the
4 only sale of asbestos materials that Dallas Gasket ever made
5 to Tyler Pipe?

6 MR. NEGEM: Excuse me a second,
7 Mr. Lowry. I need to object to that on
8 the basis of form. I believe it calls
9 for speculation and in addition it's
10 improper because it mischaracterizes his
11 former testimony. He's indicated they
12 sold sheeting, as well. To that extent
13 I object to it.

14 MR. BLACK: Answer what you know but
15 don't speculate or guess.

16 Q Do you have any --. Let me just rephrase the
17 question. Do you have any, either personal knowledge,
18 knowledge from your memory, or any written documentation to
19 show that Dallas Gasket made sales of asbestos materials to
20 Tyler Pipe other than this one sale on 3/20/85?

21 A No, ma'am.

22 Q Okay. So you don't even have any independent
23 recollection that for sure Dallas Gasket sold asbestos
24 sheeting to Tyler Pipe?

25 MR. NEGEM: We object to the form of

1 your question. That's not what he just
2 testified to.

3 MS. JUDIN: That's fine.

4 MR. NEGEM: It also calls for
5 speculation, because he's already
6 testified on Direct that he recalled
7 that Dallas Gasket and Packing sold
8 asbestos sheeting.

9 MS. JUDIN: Well, that's fine. In his
10 prior deposition he just said Dallas
11 Gasket was one of the distributors.

12 Q And my question is real straightforward. Do you
13 have any -- sitting here today, any personal knowledge that
14 Dallas Gasket sold asbestos sheeting to Tyler Pipe?

15 A No, ma'am.

16 Q Do you know where these asbestos gaskets would
17 have been used at Tyler Pipe that are in Exhibit B?

18 A No, ma'am.

19 Q They show delivery to the southwest warehouse.
20 Did Tyler Pipe have more than one warehouse?

21 A Yes, ma'am.

22 Q Okay. How many warehouses?

23 A We have five.

24 Q And do certain warehouses supply certain parts of
25 the plant?

1 A No. We only have one warehouse that supplies
2 directly to our plant. We have two other warehouses that
3 supply to our transportation and garage areas.

4 Q Okay.

5 A The southwest warehouse is an area that we store
6 resaleable items. And they're sold with our product. And
7 then we have our office services warehouse, which is office
8 supplies and so forth.

9 Q Okay. So, resaleable products, can you explain
10 that?

11 A That's a product that we make that we sell to the
12 customer.

13 Q Okay. So, if a delivery was being made to the
14 southwest warehouse, it was for something that was
15 ultimately going to go to another customer?

16 A Yes, ma'am.

17 Q Do you know why Tyler Pipe would have ordered 3-
18 5/8-inch gaskets to the southwest warehouse?

19 A No, not without the records.

20 Q Is it your understanding, then, that the delivery
21 of these gasket materials to the southwest warehouse, that
22 these materials would not even be used in the plant at Tyler
23 Pipe?

24 A Yes, ma'am.

25 Q Okay. These materials would not be used in the

1 core room, is that correct?

2 A No. No, they would not be used in the core room.

3 Q Are you aware of the use of any asbestos gaskets
4 in the core room?

5 A No, ma'am.

6 Q Did Tyler Pipe ever order any 3-5/8-inch asbestos
7 gaskets to be used in the core room?

8 A No, ma'am.

9 MS. JUDIN: I think that's all the
10 questions I have. Thank you.

11 CROSS EXAMINATION

12 BY MR. ROBINSON:

13 Q Mr. Lowry, my name is Jim Robinson. I'm here
14 today representing Lufkin Rubber and Gasket Company. You
15 testified earlier that Lufkin Rubber and Gasket Company is
16 one of the suppliers of asbestos products, is that correct?

17 A Yes, sir.

18 Q And you have no documentation to support that, is
19 that correct?

20 A I don't have any.

21 Q You just remember purchasing asbestos products
22 from Lufkin Rubber and Gasket?

23 A Yes.

24 MR. BLACK: When you say, you, you mean
25 Tyler Pipe?

1 Q I'm sorry. Yes.

2 A Tyler Pipe doesn't have any documents --.

3 Q But you personally remember purchasing such
4 products?

5 A Yes, sir.

6 Q Do you remember what years those purchases were
7 made?

8 A Through the seventies.

9 Q When did it begin?

10 A Possibly late sixties through the seventies, early
11 eighties. Not asbestos in the early eighties, though. I'm
12 just saying we did business with Lufkin Rubber and Gasket
13 during that period of time.

14 Q And would that be limited to sheeting or you may
15 have also purchased gloves and aprons from them?

16 A Not gloves and aprons, but we could have purchased
17 other gasket products.

18 Q And if Lufkin's records indicate that they did not
19 sell asbestos products to Tyler Pipe, would you have any
20 reason to refute that?

21 A Without me having records, no, sir, I wouldn't.

22 Q Thank you.

23 MR. ROBINSON: That's all the questions
24 that I have.

25 CROSS EXAMINATION

1 BY MR. DOLEZAL:

2 Q Mr. Lowry, my name is John Dolezal. You remember
3 dealing with Oriental Gasket, as you've testified?

4 A Yes, sir.

5 Q You understand that we sell products other than
6 asbestos products?

7 A Yes, sir.

8 Q Were you the person that would have specifically
9 ordered from any of these plants that we've been talking
10 about, or would other people have done it?

11 A I would have had people working for me. But in
12 the late sixties, early seventies, there's a possibility
13 that I could have been buying at that particular time.

14 Q All right. Do you personally have any specific
15 remembrance or recollection of buying any type of product
16 from Oriental Gasket while employed at Tyler Pipe?

17 A Me personally buying? No. But that is not to say
18 that I didn't buy.

19 Q Can you recall what years -- and I'm not asking
20 you to speculate -- but use the best knowledge that you have
21 -- when you would have dealt with Oriental Gasket, what
22 years?

23 A What years that I would have dealt, myself --?

24 Q Through Tyler Pipe. That you remember.

25 A Sixties, through the seventies, up through the

1 early eighties.

2 Q So once again we're talking about products in
3 general, not asbestos products alone?

4 A Yes, sir.

5 Q Do you remember about the asbestos products?

6 A Do I remember buying asbestos?

7 Q From Oriental Gasket. No, not asbestos but any
8 type of asbestos-containing product from Oriental Gasket.

9 A Sheeting.

10 Q All right. Do you remember what years you would
11 have purchased that?

12 A It would have been in the seventies and sixties.

13 Q Do you remember specifically, when you say,
14 sixties, would it have been later sixties or could it have
15 been as late as the early seventies that you remember --?

16 A I remember late sixties.

17 Q Late sixties?

18 A Yes.

19 Q And when you say, seventies, is there any time
20 within the seventies that you stopped purchasing?

21 A Late seventies.

22 Q By, late seventies, could that be as early as
23 1976?

24 A I remember we were notified about asbestos
25 products in the late seventies and we quit buying asbestos

1 by 1980.

2 Q So sometime before the date that you actually
3 stopped using asbestos products you were notified about
4 asbestos and some of the products containing asbestos, is
5 that correct?

6 A Yes, sir.

7 Q Do you know how long that was before you actually
8 stopped using the products?

9 A How long before we stopped using --?

10 MR. BLACK: I think what he's asking you
11 is when you found out about asbestos,
12 that there might be a problem, how long
13 after that was it that you kept buying
14 products --?

15 A How long we kept buying them?

16 Q How long after that did you stop buying them?

17 A We stopped in 1980.

18 Q Okay.

19 A And this was by the direction of our safety
20 director.

21 Q And then how long before you stopped buying was it
22 that you learned about some problem with asbestos?

23 A I would say, within two or three months.

24 Q As I understand your earlier testimony you don't
25 know how any of these products were packaged, is that

1 correct?

2 A No, sir, I don't know.

3 Q You just dealt with the phone work or --

4 A Yes, sir.

5 Q -- document work of getting the stuff ordered; you
6 didn't unload it or you didn't ever see it unloaded or used
7 within the plant?

8 A That's right.

9 Q Now, we're talking about a long time ago. Is it
10 possible that products, asbestos products, were purchased
11 from companies other than the three that you named today?

12 A Is it possible?

13 Q Yes.

14 A Yes, sir.

15 Q You don't remember any company that you bought the
16 gloves or aprons from?

17 A No, sir.

18 Q So, if -- and assume with me that Oriental Gasket
19 did not sell gloves or aprons and you believe what the other
20 two attorneys told you -- then it's very probable that Tyler
21 Pipe bought asbestos products from companies other than the
22 three you talked about today?

23 MR. NEGEM: Objection. Calls for
24 speculation.

25 MR. BLACK: I think you're asking him to

1 speculate on something. Can you be more
2 direct on --?

3 MR. DOLEZAL: I'm asking him to answer a
4 hypothetical question, if he believes
5 the three people here today --

6 Q -- that none of us sold any gloves or aprons --
7 as I understand the other two attorneys, they said that same
8 thing -- then it's probable, since you don't know who you
9 bought gloves or aprons from, that you were purchasing
10 asbestos-containing products, specifically gloves and
11 aprons, from companies other than Oriental Gasket and the
12 other companies that you talked about today.

13 MR. NEGEM: We'll object to that, the
14 form of the question. It also calls for
15 speculation.

16 Q You can go ahead and answer it.

17 MR. BLACK: Be sure and understand the
18 question before you answer it. Be sure
19 you understand what he's asking.

20 A We bought gloves and aprons from other suppliers
21 other than the three represented here.

22 Q You just don't remember their names?

23 A I don't remember their names.

24 Q Were you responsible for ordering or purchasing
25 any safety equipment for Tyler Pipe?

1 A Purchasing --? Yes, sir. Safety equipment.

2 Q Did y'all have respirators out there?

3 A Do we have respirators? Yes, sir.

4 Q Did you have respirators in the seventies?

5 A Yes, sir.

6 Q In the sixties?

7 A Yes, sir.

8 Q Were those made available to all the employees out
9 there?

10 A I'm not certain. You would have to ask our safety
11 director.

12 MR. DOLEZAL: That's all I have.

13 REDIRECT EXAMINATION

14 BY MR. NEGEM:

15 Q Mr. Lowry, I have a few other questions here. In
16 your earlier deposition that I took in March of 1991 you
17 testified that one of your distributors, one of Tyler Pipe's
18 suppliers of the asbestos sheeting that was used in
19 connection with the core ovens and blowboards was Dallas
20 Gasket and Packing. Do you remember that testimony?

21 A Yes.

22 Q And when I asked you questions on Direct
23 Examination today you testified to the same thing. Do you
24 remember that?

25 A Yes.

1 Q Now, I realize you don't have any documents,
2 because of Tyler Pipe's record retention plan, they throw
3 away documents after so many years, is that right?

4 A Yes.

5 Q You don't have any documents supporting that
6 Dallas Gasket and Packing supplied those materials.

7 A No, I don't.

8 Q But are you aware from your knowledge as manager
9 of purchasing throughout the past 25 years that Dallas
10 Gasket and Packing supplied asbestos sheeting that was used
11 in connection with the blowboard application?

12 MS. JUDIN: I'm going to object to the
13 form of the question in that it is
14 assuming facts not in evidence. And he
15 has just testified that, no, he doesn't
16 have any personal knowledge of that.

17 Q You can answer the question. Are you aware of it?

18 A I'm aware that Dallas Gasket and Packing, Oriental
19 Gasket and Lufkin Rubber were the three major suppliers of
20 gasket materials for Tyler Pipe during that period of time.

21 A Let me ask the question again. To your knowledge,
22 based upon your recollection as manager of purchasing, what
23 main companies supplied the asbestos sheeting for the
24 blowboard application? Please name them.

25 A Oriental Gasket I'm certain of.

1 Q Okay. What other ones?

2 A The other two I'm not certain of --

3 Q Okay.

4 A -- Dallas Gasket and Lufkin Rubber.

5 Q Okay. You did testify in an earlier deposition
6 that Dallas Gasket and Packing and Lufkin Rubber and Gasket
7 supplied asbestos sheeting, didn't you?

8 A I think I most likely did. But I think I --. I
9 admit that those were the three major gasket suppliers.

10 Q Okay. What did you base your testimony on that
11 Dallas Gasket and Packing and Lufkin Rubber and Gasket
12 supplied asbestos sheeting on?

13 A Okay. We go out on yearly quotes for a large
14 number of gasket materials. The low bidder normally gets
15 the majority of all our gasket products at that period of
16 time. So based on these three suppliers being competitive
17 and us buying from them, that was what I based it on.

18 Q Okay. And at that time was that to the best of
19 your recollection?

20 A Yes, it was.

21 Q So you're not ruling out that Dallas Gasket and
22 Packing was not a supplier of asbestos sheeting?

23 MS. JUDIN: I object to the form of the
24 question as leading and also repetitive.
25 He has said several times that he

1 doesn't have any personal knowledge of
2 it.

3 Q You can go ahead and answer the question.

4 A Without records I cannot substantiate that, no.

5 Q I understand that. I'm asking you for your
6 personal recollection. You know, we can look back and
7 remember, especially when somebody has worked as a manager
8 of purchasing for 25 years, you can look back and remember
9 who supplied the asbestos sheeting.

10 To the best of your recollection, besides Oriental
11 Gasket, who supplied it?

12 A The other two would have been Dallas Gasket and
13 Packing, if they were a low bidder, or Lufkin Rubber and
14 Gasket, if they were the low bidder.

15 Q Right. Now, to the best of your recollection did
16 you get the asbestos sheeting during the sixties and
17 seventies from other than one supplier?

18 A To the best of my recollection, we did.

19 Q In other words, you didn't get all of it from
20 Oriental Gasket?

21 A As far as I know, based on the way we go out on
22 competitive bids, and knowing that we changed suppliers
23 yearly sometimes, yes.

24 Q Okay. Thank you very much, Mr. Lowry.

25 RE CROSS EXAMINATION

1 BY MS. JUDIN:

2 Q Mr. Lowry, I have just a few more questions. I
3 realize this is difficult, that you're having to go back and
4 basically try to remember things because there are no
5 records.

6 And I just, for your sake, I have looked back at
7 your deposition and I don't really think that you've
8 answered specifically that these three companies were the
9 asbestos sheeting. What your deposition says --.

10 MR. NEGEM: You can look at it. There
11 it is right there.

12 Q On Page 11, Line 18, it says, we had three
13 distributors about that time that we bought similar
14 materials. And then you name the three. And then you say,
15 I'm not sure; those are the only three I can think of.

16 So, don't be buffaloed into saying anything that
17 you don't know.

18 MR. NEGEM: I object to sidebar remarks.

19 Nobody has buffaloed him.

20 Q You have testified that in approximately 1980 that
21 Tyler Pipe quit purchasing asbestos products. Do you mean
22 quit purchasing asbestos products for use in Tyler Pipe's
23 plant?

24 A Yes, ma'am.

25 Q Okay. Such as the blowboard applications or any

1 other --

2 A Gloves, --.

3 Q -- aprons, gloves, etcetera. Okay. So, to the
4 best of your knowledge after 1980 would any workers,
5 employees of Tyler Pipe, have been exposed to any asbestos
6 products?

7 A To the best of my knowledge, --

8 Q Yes, sir.

9 A -- no, they wouldn't.

10 MR. NEGEM: I've got to object to that.
11 It calls for speculation. He never
12 worked in the plant. I forgot -- I just
13 missed that objection.

14 Q According to my understanding of my client's
15 products, we never sold gloves or aprons or coats. Do you
16 have any knowledge that Dallas Gasket and Packing ever sold
17 any gloves, aprons or coats to Tyler Pipe?

18 MR. NEGEM: I object to the form of your
19 question. He doesn't have to take what
20 your client says as true.

21 MS. JUDIN: That's fine.

22 MR. NEGEM: And the addition that,
23 according to your recollection of what
24 your client says, is not even proper
25 insofar as your question is concerned.

1 So I object to the form of it.

2 MR. BLACK: And I'm just going to say,
3 just answer on your personal knowledge
4 and what you know.

5 A Would you repeat the question?

6 Q Yes. Do you have any personal knowledge or any
7 documentation or any recollection that Dallas Gasket and
8 Packing ever sold any aprons, gloves or coats to Tyler Pipe?

9 A No, they did not.

10 Q You know that they did not?

11 A Yes, ma'am, I know that they did not.

12 Q You know that Tyler Pipe never purchased aprons,
13 gloves or coats from Dallas Gasket?

14 A That's right.

15 Q Okay. Do you know what other nonasbestos products
16 Tyler Pipe purchased from Dallas Gasket?

17 A Neoprene would be one. That would be the only one
18 that I could think of right off.

19 Q Do you have any memory of ever dealing directly
20 with someone from Dallas Gasket?

21 A Not myself, no.

22 Q Do you know if you ever did?

23 A If I bought from them I'm sure I dealt with a
24 sales rep. But as far as their name, no, I don't.

25 Q And sitting here today do you have any specific

1 recollection of ever dealing with someone from Dallas
2 Gasket?

3 A Not right off.

4 MS. JUDIN: I guess that's all I have.

5 Thank you.

6 RECROSS EXAMINATION

7 BY MR. ROBINSON:

8 Q I have one more question. We've gone back and
9 forth here for a while now. And I've gotten a little
10 confused. I don't mean to oversimplify your testimony but
11 let me phrase it this way and you tell me whether or not
12 this is a correct statement.

13 It's my understanding that you're just not certain
14 if you bought asbestos products other than possibly gasket
15 products from Lufkin Rubber and Gasket. Is that correct?

16 A We only bought gasket products from Lufkin Rubber.

17 Q And you just don't remember for sure if you bought
18 any other asbestos products from Lufkin Rubber and Gasket?

19 A No, I don't remember.

20 Q Thank you, sir.

21 RECROSS EXAMINATION

22 BY MR. DOLEZAL:

23 Q Mr. Lowry, before you actually went into the
24 Purchasing Department I take it that you don't have any idea
25 who you bought any products from, is that correct?

1 A That's right.

2 Q And by, you, I mean Tyler Pipe.

3 A That's right.

4 Q So as far as you know it could have been
5 distributors that aren't here today?

6 A That's right.

7 Q And to your knowledge do you know one way or the
8 other whether Tyler Pipe ever bought any gloves or aprons
9 from Oriental Gasket?

10 A No, we did not buy any.

11 Q So your testimony is that you did not buy gloves
12 or aprons from Oriental Gasket?

13 MR. BLACK: You mean, Tyler Pipe?

14 Q Yeah. Once again, when I say, you, I mean Tyler
15 Pipe.

16 A No, we did not.

17 MR. DOLEZAL: That's all we have.

18 MR. NEGEM: We don't have any further
19 questions.
20
21
22
23
24
25

I DO CERTIFY that I have read the foregoing transcript and that the same and accompanying correction sheets, if any constitute a true and correct record of my testimony.

PAUL LOWRY

STATE OF TEXAS

SUBSCRIBED AND SWORN TO BEFORE ME by the said
PAUL LOWRY on this the _____ day of
_____, 19____, to certify which witness my
hand and seal of office.

NOTARY PUBLIC - STATE OF TEXAS

My Commission Expires _____

NO. 90-968-A

RAVIN GREEN, ET AL.	X	IN THE DISTRICT COURT
VS.	X	OF
ORIENTAL GASKET AND	X	
PACKING COMPANY, ET AL.	X	SMITH COUNTY, TEXAS

DEPOSITION OF PAUL LOWRY

I, JUDY MURFF, CERTIFIED SHORTHAND REPORTER, STATE OF TEXAS, DO HEREBY CERTIFY, pursuant to the Texas Rules of Civil Procedure, the following:

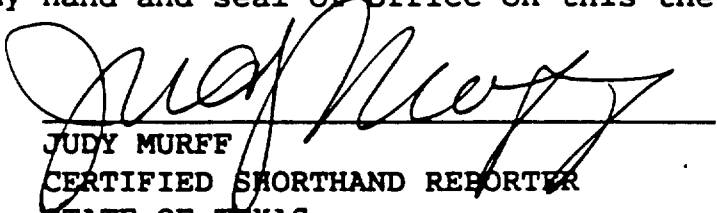
That the deposition transcript is a true and correct record of the testimony given by the witness named herein, after said witness was duly sworn by me;

That \$165.00 is the charge for the preparation of the completed deposition transcript charged to the Counsel for the Plaintiffs;

That the original transcript was sent to the Counsel for the Witness for the purpose of obtaining the signature of the Witness thereupon before any Notary Public, notifying all Counsel of any changes in the transcript, and custody until the time of trial;

That a copy thereof was provided to all Counsel present at the time of taking of the deposition who requested such;

Given under my hand and seal of office on this the 4th day of March, 1991.



JUDY MURFF
CERTIFIED SHORTHAND REPORTER
STATE OF TEXAS
CERTIFICATE NO. 253
EXPIRES 12-31-91
211 E. TYLER, SUITE 513
LONGVIEW, TX 75601
903/759-9534

GASKET AND PACKING CO., INC.

CAUSE NO. 90-968-A

FILED 32803
F. BRAD BURGESS
DISTRICT CLERK

1991 FEB 14 PM 4:15

SMITH COUNTY TEX
IN THE DISTRICT COURT
DEPUTY

RAVIN GREEN and wife,
R. V. GREEN; and
BILLY HAMPTON and wife,
RUBY LEE HAMPTON

VS.

ORIENTAL GASKET & PACKING
COMPANY; DALLAS GASKET &
PACKING CO., INC.; and
LUFKIN RUBBER & GASKET CO.

OF SMITH COUNTY, TEXAS

7TH JUDICIAL DISTRICT

**OBJECTIONS TO SUBPOENA DUCES TECUM
AND MOTION FOR PROTECTION**

TO THE HONORABLE JUDGE OF SAID COURT:

TYLER PIPE INDUSTRIES, INC., PAUL LOWRY, BOBBY SMITH, CHARLES KUENEMAN, and OLIN JACKSON, hereinafter referred to as Movants, file these their Objections to Subpoena Duces Tecum served on the undersigned counsel on or about January 18, 1991, and in support thereof would respectfully show unto the Court as follows:

I.

On or about January 19, 1991, the undersigned counsel received a Notice of Intention to Take Oral Deposition and Subpoena Duces Tecum, which is attached hereto as Exhibit "A". The Subpoena Duces Tecum requests production of three (3) categories of documents. To the extent any of said three (3) categories might be construed to request production of any documents privileged from discovery under Rule 166b (3) a, b, c, d, and/or the attorney-client privilege, objection is made.

Exhibit "A"

II.

Movants object to items 1, 2 and 3 to the extent said items are overly broad and might be construed to request documents having absolutely nothing to do with asbestos or asbestos-containing products and to that extent this request would be irrelevant and not be calculated to lead to the discovery of admissible evidence.

III.

Movants request the Court for protection to the extent objection is made to the aforesaid Subpoena Duces Tecum.

WHEREFORE, premises considered, Movants respectfully pray that this Honorable Court sustain their objections and motion for protective order, and that they have such other and further relief to which they may show themselves justly entitled.

Respectfully submitted,

Dennis G. Black by
DENNIS G. BLACK
State Bar No. 02369600

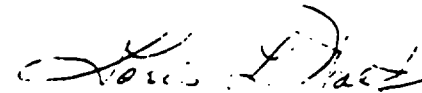
OF COUNSEL:

RAMEY, FLOCK, JEFFUS, CRAWFORD,
HARPER & COLLINS
A Professional Corporation
500 First City Place
P. O. Box 629
Tyler, Texas 75710
(903) 597-3301
Telefax Number: (903) 597-2413

ATTORNEYS FOR MOVANTS

CERTIFICATE OF SERVICE

I hereby certify the foregoing Objections to Subpoena Duces Tecum and Motion for Protection has been served upon counsel for Plaintiffs, Mr. Blake Bailey, 440 S. Vine Street, Tyler, Texas 75702, by hand delivery, and to all other counsel by regular mail, on this 1st of February, 1991.



LEGAL SECRETARY/ASSISTANT

CAUSE NO. 90-968-A

RAVIN GREEN and wife, R. V.	§	IN THE DISTRICT COURT
GREEN; AND BILLY HAMPTON	§	
and wife, RUBY LEE HAMPTON;	§	
	§	
VS.	§	SMITH COUNTY, TEXAS
	§	
ORIENTAL GASKET & PACKING	§	
COMPANY; DALLAS GASKET &	§	
PACKING CO., INC.; AND LUFKIN	§	
RUBBER & GASKET CO.	§	7TH JUDICIAL DISTRICT

NOTICE OF INTENTION TO TAKE
ORAL DEPOSITION AND SUBPOENA DUCES TECUM

TO: Defendant, ORIENTAL GASKET & PACKING COMPANY, by and through its attorney of record, John R. Dolezal, P. O. Box 350, Beaumont, Texas 77704-0350.

Defendant, DALLAS GASKET & PACKING COMPANY, by and through its attorney of record, Jennifer Judin, One Ridgmar Centre, 6500 West Freeway, Suite 715, Fort Worth, Texas 76116.

Defendant, LUFKIN RUBBER & GASKET CO., INC., by and through its attorney of record, Martin L. Mayo, 2700 Two Houston Center, Houston, Texas 77010-1063.

PLEASE TAKE NOTICE that pursuant to the Texas Rules of Civil Procedure on Friday, February 15, 1990, beginning at 9:00 a.m., and continuing day to day thereafter until completed, Plaintiffs, by and through their attorney of record, Mr. Jimmy H. Negem, will take the depositions of the following Tyler Pipe Industries, Inc. employees:

Paul Lowry, Manager of Purchasing;

Bobby Smith, Technical Service Manager

Charles Kueneman, Safety Director; and

Olin Jackson, former Plant Superintendent.

Said depositions will be at the offices of Dennis Black, 500 First Place, 5th Floor, Tyler, Texas, phone



number 903/597-3301, before John Foster or his designee, a certified shorthand reporter.

You are invited to attend and cross-examine the witnesses.

The witnesses are subpoenaed to appear and bring and produce the following documents*:

1. All documents held by Tyler Pipe Industries, Inc., concerning suppliers of asbestos products, fire bricks, kiln components, and insulation products during the time period of 1942 through 1985.
2. All documents referring to safety regulations, policies, procedures, and/or instructions of suppliers of asbestos products, fire bricks, kiln components, and insulation products during the time period of 1942 through 1985.
3. All documents referring to safety regulations, policies, procedures, and/or instructions of Tyler Pipe Industries, Inc., during the time period of 1942 through 1985.

*Document means each of the following that is in the possession, custody, or control of the witness or that can be obtained by the witness through the exercise of a superior right to compel production from a third party: The original and each non-identical copy (whether different from the original by virtue of notes made or otherwise) and, if the original is not in existence or subject to your control, each non-identical copy, regardless of origin or location, of any hand written, type written, printed, recorded, transcribed, punched, taped, photocopied, photostatic, telecopied, filmed, microfilmed, or otherwise prepared matter, including without limitation any papers, books, accounts, drawings, drafts, charts, photographs, phonorecords, plans, blueprints, telexes, telegrams, electronic or video taped or mechanical records, magnetic impulses, and other data compilation from which information can be obtained or translated into reasonable or useable form.

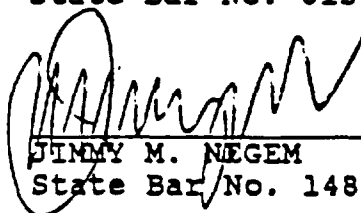
Said documents are to be produced for inspection at time of deposition.

Said depositions when taken and returned, according to law, are to be used as evidence at trial of this cause.

Respectfully submitted,

BAILEY, NEGEM,
PATTERSON & DROTT
440 S. VINE
TYLER, TEXAS 75702

By: 
BLAKE BAILEY
State Bar No. 01514500

By: 
JIMMY M. NEGEM
State Bar No. 14865500

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been mailed via U. S. certified mail, return receipt requested, to the below listed parties on this the 15th day of January, 1991.

Mr. John R. Dolezal
Weller, Wheelus & Green
P. O. Box 350
Beaumont, Texas 77704-0350

Ms. Jennifer Judin
Shrull & Associates
One Ridgmar Centre
6500 West Freeway, Suite 715
Fort Worth, Texas 76116

Mr. Martin L. Mayo
Giessel, Stone, Barker & Lyman
2700 Two Houston Center
Houston, Texas 77010-1063


Ann Hitt
Secretary to Blake Bailey

